

# **Exhibit A**

## CAUSE NO.

Robert Dedmon,

*Plaintiff,*

v.

Shell Exploration & Production  
Company and Shell Trading Services  
Company,*Defendants.*§  
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In the District Court

of Harris County, Texas

\_\_\_\_\_ Judicial District

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**ORIGINAL PETITION AND JURY DEMAND**

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**DISCOVERY PLAN**

1. Robert Dedmon intends discovery to be conducted under Level 3 of Texas Rule of Civil Procedure 190.

**INTRODUCTION**

2. This is an unlawful employment practices case. It involves claims under Title VII of the Civil Rights Act of 1964 ("Title VII") for race and color discrimination. Employers must not use race or skin color as a motivating factor to pay employees less, or to place or keep employees in lower level jobs as to rank, prestige, or pay. The employers in this case violated these rules.

## **PARTIES**

3. Shell Exploration & Production Company is a corporation that conducts business in Texas and conducted business in Texas at the time the claims asserted herein accrued, according to Texas Secretary of State records. Its principal office and principal place of business is in Houston, Texas, according to Texas Secretary of State records. It may be served with process through its designated registered agent in Texas as follows:

Shell Exploration & Production Company  
c/o its registered agent in Texas  
CT Corporation System  
1999 Bryan Street  
Suite 900  
Dallas, Texas 75201

4. Shell Trading Services Company is a corporation that conducts business in Texas and conducted business in Texas at the time the claims asserted herein accrued, according to Texas Secretary of State records. Its principal office and principal place of business is in Houston, Texas, according to Texas Secretary of State records. It may be served with process through its designated registered agent in Texas as follows:

Shell Trading Services Company  
c/o its registered agent in Texas  
CT Corporation System  
1999 Bryan Street  
Suite 900  
Dallas, Texas 75201

5. Robert Dedmon is an individual who resided in Texas at the time the claims asserted herein accrued and who continues to reside in Texas.

### **JURISDICTION**

6. The Court has subject matter jurisdiction over this case because (1) Robert seeks damages within its jurisdictional limits, (2) the Court has concurrent jurisdiction over Title VII claims, and (3) the asserted claims are not subject to exclusive jurisdiction in another court. The Court has personal jurisdiction over each defendant because, as to each defendant, (1) the claims asserted against it arose directly from its acts and omissions in Texas, and (2) its affiliations with Texas are so continuous and systematic that it is “essentially at home” in Texas — each maintains its principal office and principal place of business in Texas.

### **VENUE**

7. Venue is proper under Texas Civil Practice and Remedies Code § 15.002(a)(1) because all or a substantial part of the events and omissions giving rise to the asserted claims occurred in Harris County, Texas. This case involves unlawful employment practices that took place in Harris County, Texas.

8. Venue is also proper under Texas Civil Practice and Remedies Code § 15.002(a)(3) because each defendant maintained its principal office in Harris County, Texas at the time the asserted causes of action accrued.

## ABBREVIATED BACKGROUND




### **Shell's scope of business and employment policies and practices**

9. Shell Exploration & Production Company and Shell Trading Services Company (“Shell Defendants”) are in the oil and gas business. They are part of a global energy trading network, from upstream supplier sourcing to downstream customer sales.

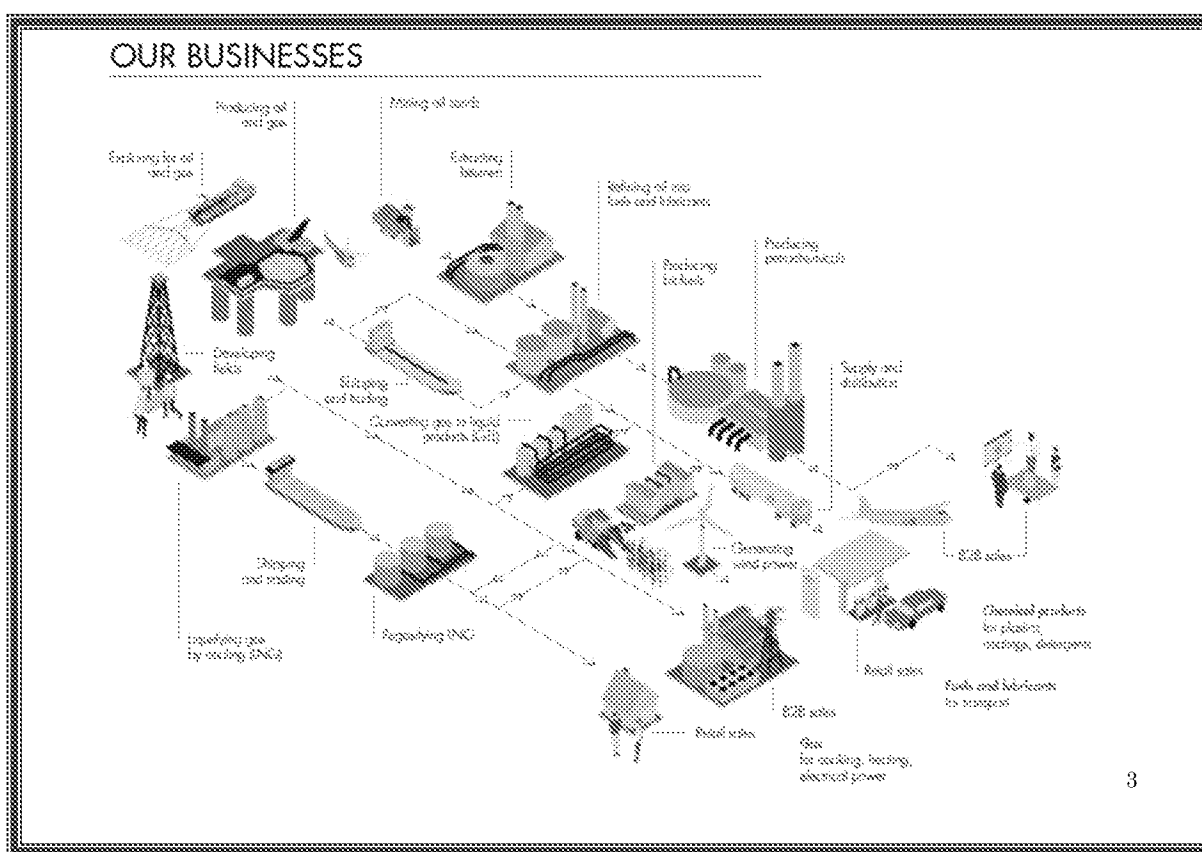
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<sup>1</sup> Image from the Shell Global website [2021].

10. The Shell Defendants are part of the Shell organization of companies.<sup>2</sup> They each use the use the Shell trade name and Shell trademark . They are each part of the Royal Dutch Shell plc annual reports. Houston is their only main trading and marketing location in the United States.

11. Shell depicts its overall operational structure as follows:

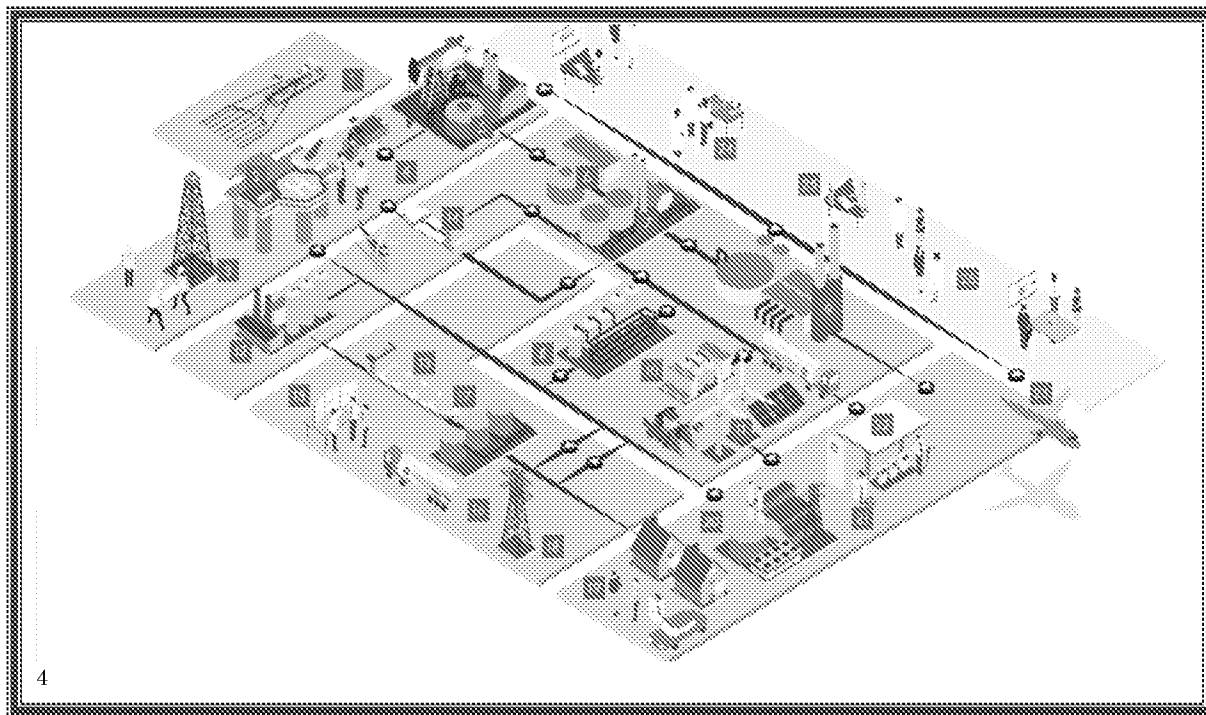
2013



<sup>2</sup> This petition uses *Shell* to refer to the Shell organization of companies. Unless otherwise noted, this petition refers to *Shell* only when the referenced practices, policies, information, or knowledge are believed to apply to each defendant in whole or in part.

<sup>3</sup> Image from the Shell Sustainability Report [2013] hyperlinked on the Shell United States website [2014].

2020



12. Shell operations in the United States appear to involve the same employment policies and practices. Here are a couple of examples. Shell operations in the United States at some point include a United States Human Resources Policy Manual. Shell operations in the United States at some point involve a United States Compensation Team.

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<sup>4</sup> Image from the Shell Sustainability Report [2020] hyperlinked on the Shell United States website [2021].

**Shell's history of problems with  
bias against black employees**

13. Shell has a history of problems with bias against black employees in the United States. Consider a former black employee whose story starts with Shell in 1980 and continues with Shell for about 27 years. He says this about his start:

At my first job [in One Shell Square], a guy walked up to me and asked me to sort his mail. I told him no, I'm not going to do that, I'm an engineer here. There are lots of black people in oil and gas with similar experiences.

His career with Shell includes assignments based in Texas, Louisiana, and California. He reaches executive level but says of his career that he has many racist experiences that test his desire to remain in the energy industry.

14. Shell knows, or should know, about this history. The 2014 Shell Global Diversity and Inclusion brochure cites the former employee whose story we address above. But Shell does not make public any reports [if it has any] on the number of black employees at different job levels in the United States. Shell does not make public any reports [if it has any] on comparative compensation for black employees — sometimes known as pay-gap reports.

### Shell's public-facing promises



15. As early as 2014, Shell publicly promises that, when it comes to brand image and diversity and inclusion values, “the performance matches the words.”<sup>6</sup> At the time, the Shell Vice President for Diversity and Inclusion emphasizes accountability:

Accountability is extremely important. Once you’ve agreed to what you’re going to do around [diversity and inclusion], then go and do it and make sure that there are regular reviews, discussions ... [and] readjust actions and behaviors – but hold people accountable to what they say they are going to do.<sup>7</sup>

<sup>5</sup> Image from Shell Diversity and Inclusion brochure hyperlinked on the Shell Global website [2014].

<sup>6</sup> Shell Diversity and Inclusion brochure hyperlinked on the Shell Global website [2014], at 13.

<sup>7</sup> *Id.* at 8.

16. Today, Shell promises: “We are working to address racial inequity.”<sup>8</sup>

Shell says:

Protests during 2020 in the USA and other parts of the world have caused everyone to think more deeply about what diversity and inclusion means at work. Within Shell, we have had many conversations on race and equity, how we can help address systemic injustice ...<sup>9</sup>

### Shell’s pay gap for black employees at Shell UK

Shell UK		
Ethnicity declaration rate of 75%		
Mean and median pay and bonus gap		
	MEAN	MEDIAN
YEAR	2020	2020
Ethnicity Pay Gap	8.5%	11.8%
Bonus Pay Gap	9.3%	6.6%

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17. For the first time in 2020, Shell publishes a pay-gap report for minority employees, including black employees, in the United Kingdom. The report shows disparity in both regular pay and bonus pay for Black, Asian, and Minority Ethnic groups.

<sup>8</sup> Shell Global website [2021], About Us, Diversity and Inclusiveness, Race and Equity.

<sup>9</sup> *Id.*

<sup>10</sup> Shell UK Diversity Pay Gap Report [2020], at 6.

18. The most significant disparity is for black employees:

Within the Black, Asian and Minority Ethnic groups, the pay gaps vary, and we see the highest pay gaps when comparing the average pay of Black employees with the rest of the workforce.<sup>11</sup>

Shell does not appear to have published any such report [if it has done the work and has one] for employees in the United States.

### **Shell's knowledge concerning Lilly Ledbetter Act**

19. Shell knows, or should know, about the Lilly Ledbetter Fair Pay Restoration Act and the implications for pay practices and document retention policies. It has now been more than a decade since the Act became effective in 2009. The Act recognizes the reality that employers often hide pay discrimination from affected employees.

20. The Act amends Title VII to clarify that pay discrimination — the unlawful employment practice — may occur at different points. It occurs not just when adopted, but also *each* time a person (1) *becomes subject* to the unlawful decision or practice or (2) is *affected* by the unlawful decision or practice.<sup>12</sup> The latter may include each time wages, benefits, or other compensation is paid. Any tainted paycheck.

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<sup>11</sup> Shell UK Diversity Pay Gap Report [2020], at 6.

<sup>12</sup> 42 U.S.C. § 2000e-5(e)(3)(A) (“For purposes of this section, an unlawful employment practice occurs, with respect to discrimination in compensation in violation of this subchapter,

21. At the time it becomes law, the Act is widely publicized to employers, human resources professionals, and employment attorneys. At the time, employers are advised to extend the length of time they retain documents about pay decisions. For example, an employer-side law firm publicly recommends that employers keep such documents for at least two years after employment ends.

**Shell's private practices:  
lower-level jobs and pay for black employees  
because of race**

22. Shell uses job grades with salary ranges for United States employees. The lower the job grade number, the higher the rank, prestige, and pay range. So, a lower *numbered* job grade is the *higher* job grade because it is higher in rank, prestige, and pay. For example, job grade 1 is presumably the best and highest job grade.

23. In 2014, Shell posts an open job opportunity for a Houston, Texas sales position at a job grade 5. The Shell Defendants offer a candidate this sales position at a job grade 5. On information and belief, that job candidate is a white female. She declines the offer.

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when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from such a decision or other practice.”).

24. The Shell Defendants decide to offer the sales position to another candidate who has, among other qualifications and experience, an MBA with a focus on energy finance. This job candidate is a black male.

25. Before making the offer, Shell Human Resources directs the hiring manager to prepare the offer at job grade 6 — *i.e.*, a downgrade in rank, prestige, and pay range.<sup>13</sup> The hiring manager says no, we need to make a competitive offer at grade 5. The hiring manager asks something like: *Why are we taking the job grade down?*

26. Shell Human Resources responds in essence along the lines of this:<sup>14</sup>

Historically, we have found that people like this, people of color, minorities, struggle at being successful; so we're giving him a lower job grade; he needs to prove he is capable of handling a role of this significance or we would be setting him up for failure.

The hiring manager tells her boss about this discussion — that a downgrade is happening because the new hire is black. Her boss thinks perhaps this is a misunderstanding, maybe she potentially misunderstood the words human resources used.

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<sup>13</sup> At the time, this individual — the hiring manager for this position — is a Shell Trading Manager for Marketing, Sales, and Analytics.

<sup>14</sup> This is the gist of the response. It is not intended to be verbatim word-for-word. The hiring manager uses the phrase *people of color* when talking to Robert years later. In describing the human resources response, the hiring manager sometimes uses slightly different words or phrases that have the same meaning and the same gist.

27. So, the hiring manager follows up with Shell Human Resources to clarify and gets the same result. The hiring manager says something like this:

I understood you wanted me to offer this at a lower-level job grade because he is black.

28. Shell Human Resources confirms, responding along the lines of:

Historically, minorities do not do well at Shell, so we do not want to set him up to fail by starting him at a higher [ranked and paying] job grade.

The hiring manager complies with this directive. The offer is accepted.

29. The Shell Defendants start this MBA, who has energy finance, energy trading, real estate, and sales experience, with career handicaps and lower pay because he is black. That employee is Robert Dedmon. No one tells Robert what has happened.

30. The hiring manager does as she is told, but she also emails an internal complaint and requests an investigation [into discriminatory pay]. The hiring manager later hears the investigation is complete but that results cannot be disclosed. Today, the Shell Defendants claim they cannot find any records of the complaint or an investigation.

31. The Shell Defendants continue to employ Robert, who is the only black employee on his sales team. The Shell Defendants hand him one of the most difficult groups of potential clients within his sales team. This group of potential clients involves tighter margins and tougher sells. Despite these obstacles, Robert is a top performer, and he has reached job grade 5.

32. The allegations in this paragraph are on information and belief. The Shell Defendants' discriminatory pay practices include the following [in addition to the original downgrade in job rank, prestige, and pay range]:

- ✓comparatively lower annual salary raises
- ✓comparatively lower annual bonuses
- ✓keeping him at job grade 5 when should be at job grade 4 based on tenure and performance; job grade 4 involves higher pay and bonus potential, as well as stock incentives
- ✓continuing effects in each paycheck due to prior discriminatory pay practices

### **Shell's revelation of the first race-based job and pay decision**

33. In the summer of 2020, in the wake of the George Floyd murder, national and local discussions about the harm from silence and inaction, and a Shell town hall meeting on these problems, the hiring manager decides to speak. The hiring manager tells Robert she has information that she cannot hold onto any longer. She tells Robert what happened with his hire. The downgrade because of his race.

### **Shell's response to Equal Employment Opportunity Commission**

34. Robert timely files a charge of discrimination with the United States Equal Opportunity Commission (“EEOC”). The charge serves as a request that the government investigate — here, job grade and pay practices in which race or color play a role. The charge, among other things, expresses concern over potential systemic discrimination and the need to find the root cause for discriminatory job grade and pay practices.

35. A Shell Human Resources Consultant submits a response to the EEOC. The Shell Defendants have an opportunity to make things right. To be accountable as promised. To match actions with words as promised. Shell Human Resources instead claims inability to verify whether the events occurred, (1) per “record retention schedule and relevant legal requirements” and (2) because some involved individuals are no longer employed. It does not know. Yet, it brands Robert as having made allegations that are “without merit.”

### **COVERED EMPLOYERS AND EMPLOYEE**

36. An employee may have more than one employer under Title VII. At all times relevant to this case, the Shell Defendants employed Robert within the meaning of Title VII. Defendant Shell Exploration & Production Company represented to the EEOC that it is and was Robert’s employer. It represented that Robert joined it as an employee on August 19, 2014. Defendant Shell Trading Services Company is

named in the employment offer letter as an employer. It is also the employer listed on IRS Forms W-2 for Robert.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

37. Robert exhausted all administrative remedies required as a prerequisite to filing this civil action. He timely filed a Charge of Discrimination with the EEOC. He timely filed this civil action within 90 days of receipt of an EEOC notice of right to sue.

#### **CLAIM FOR RELIEF [TITLE VII]: RACE AND COLOR DISCRIMINATION**

38. The abbreviated background and coverage allegations are incorporated here.

39. The conduct described above shows that the Shell Defendants violated Title VII [42 U.S.C. §2000e *et seq.*] — by using race and skin color as a motivating factor in job grade and compensation practices. These unlawful employment practices are ongoing.

40. As a result of the above, Shell caused harm to Robert — and likely many others whose compensation was similarly impacted.

### **EQUITABLE RELIEF**

41. Private plaintiffs and their counsel in Title VII cases act as private attorneys general to serve the ultimate purposes of Title VII, such as prevention and elimination of discrimination. There are systemic problems at Shell. So, there is a reasonable likelihood that the Shell Defendants will not comply with Title VII in the future. There is a reasonable likelihood that the Shell Defendants will continue to use race and color as motivating factors in setting job grade and compensation terms.

### **PUNITIVE DAMAGES**

42. The Shell Defendants engaged in discriminatory practices with malice or with reckless indifference to the federally-protected rights of its employees, including Robert. The Shell Defendants knew better: they knew the law and violated it anyway. This petition seeks punitive damages sufficient to punish the Shell Defendants and deter similar conduct in the future — in accordance with Title VII.

### **ATTORNEYS' FEES**

43. As a result of the Shell Defendants' conduct, Robert hired attorneys to represent him in pursuing the claims asserted in this case. He seeks to recover reasonable attorneys' fees in connection with this case, including all appeals, pursuant to Title VII.

### **CONDITIONS PRECEDENT**

44. All conditions precedent to filing suit and to recovery on the asserted claims have occurred, been performed, or been waived.

### **JURY DEMAND**

45. Robert requests a jury trial on all issues triable of right or choice by a jury.

### **REMEDIES REQUESTED**

46. Texas Rule of Civil Procedure 47 requires an original petition to select among specified ranges of potential relief. This original petition selects the range in Texas Rule of Civil Procedure 47(c)(3). This range may change over time. Robert is free to suggest more or less — based on the evidence, much of which the Shell Defendants control [if not they have not destroyed that evidence]. The jury and judge are free to find more or less at trial based on the evidence.

47. This is because the rule is just meant to identify any expedited actions and the nature of the case at the time of filing. The rule does not affect a party's substantive rights.

48. Robert respectfully requests the following remedies under Title VII:

A. judgment against defendants, jointly and severally, on all claims asserted herein;

- B. upon a finding that the Shell Defendants engaged in an unlawful employment practice or practices under Title VII, appropriate injunctive relief prohibiting them from engaging in such unlawful employment practice(s) in the future — with the specifics to be tailored to the problems, deficiencies, and gaps that the evidence shows;
- C. the following additional equitable relief:
- (1) requiring the Shell Defendants to adopt, and implement, procedures and policies better designed to ensure that race and color play no role in setting employee compensation or job grades — with the specifics to be tailored to the problems, deficiencies, and gaps that the evidence shows;
  - (2) requiring the Shell Defendants to conduct an audit designed to uncover pay disparities in compensation of black employees in the United States — with the specifics to be tailored to the problems, deficiencies, and gaps that the evidence shows, and with the audit design approved by undersigned counsel or the Court or some other agreed individual or entity;
  - (3) requiring the Shell Defendants to publish the results of the above audit on the Shell United States website;
  - (4) requiring the Shell Defendants to provide training to all employees in the United States on discriminatory job grade and compensation decisions and related compliance under Title VII — with the training specifics to be tailored to the problems, deficiencies, and gaps that the evidence shows;
  - (5) requiring the Shell Defendants to provide training to all employees in the United States on corrective measures and related compliance under Title VII following a pay disparity finding — with the training specifics to be tailored to the problems, deficiencies, and gaps that the evidence shows;
  - (6) requiring the Shell Defendants to report on the manner of compliance with the terms of any final order for non-monetary equitable relief issued under Title VII — with the reporting specifics to be tailored based on the evidence;
  - (7) past and future lost compensation including benefits;

- (8) all further non-monetary equitable relief that may be appropriate based on the evidence;
- (9) prejudgment interest;
- D. compensation for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses;
- E. punitive damages;
- F. reasonable attorneys' fees and costs, including reasonable expert fees;
- G. post-judgment interest as allowed by law;
- H. all other relief to which he may show himself justly entitled under law or in equity.

Respectfully submitted,

*/s/ Amy Gibson*

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Ms. Amy E. Gibson  
Texas State Bar No. 00793801  
[amy@gwfirm.com](mailto:amy@gwfirm.com)

Mr. David L. Wiley  
Texas State Bar No. 24029901  
[david@gwfirm.com](mailto:david@gwfirm.com)

**Gibson Wiley PLLC**  
1500 Jackson Street #109  
Dallas, Texas 75201-4923  
T: (214) 522-2121  
F: (214) 522-2126

*Attorneys for Robert Dedmon*



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this October 6, 2021

Certified Document Number: 97787193 Total Pages: 20

Marilyn Burgess, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

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